

TITLE 14: COMMERCE  
SUBTITLE C: ECONOMIC DEVELOPMENT  
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 651  
CANNABIS BUSINESS INCUBATOR AND SPONSORSHIP PROGRAMS

Section

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AUTHORITY: Implementing the Cannabis Business Incubator and Sponsorship Programs and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705] and the Department of Commerce and Economic Opportunity Law [20 ILCS 605].

SOURCE: Adopted at 44 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 651.10 Purpose**

This Part identifies the eligibility requirements and process for Early Approval Adult Use Dispensing and Cultivation Organization Licensees' participation in the Cannabis Business Incubator and Sponsorship Programs.

**Section 651.15 Definitions**

The following definitions are applicable to the Cannabis Business Incubator and Sponsorship Programs:

"Act" means the Cannabis Regulation and Tax Act [410 ILCS 705]. Article 15 of the Act authorizes these programs.

"Department" means the Illinois Department of Commerce and Economic Opportunity.

"Host" means:

an Early Approval Adult Use Dispensing or Cultivation Organization License holder that provides a loan of at least \$100,000 and provides mentorship to one or more licensees that qualify as Social Equity Applicants; or

a Social Equity Applicant intending to seek a license as part of a Social Equity Inclusion Plan.

*"Incubate" means providing direct financial assistance and training necessary to engage in licensed cannabis industry activity similar to that of the host licensee.*  
[410 ILCS 705/15-15(b)(8)(d) and 15-20(d)(4)]

"Loan" means a traditional financial arrangement governed by a written document establishing the terms of repayment and term of that document. Loan, as used in the Cannabis Business Incubator Program, does not include instruments of convertible debt or other forms of financial arrangements differing from that of a traditional loan. Transfers of these loans are prohibited.

"Mentor" means an Early Approval Adult Use Dispensing or Cultivation Organization license holder that participates in the Cannabis Business Sponsorship Program.

"Mentorship" means a mentor providing business guidance in the start-up and operation of a successful cannabis business. Mentorship can include, but is not limited to, offering advice on developing a business plan, cultivating cannabis products, securing real estate, developing a cannabis product supply chain, soliciting investment in cannabis businesses, navigating legal compliance for cannabis businesses, and networking with other participants in the cannabis industry.

"Ownership Interest" means a substantial economic benefit gained by the Early Approval Adult Use Dispensing or Cultivation Organization Licensee from a Social Equity Applicant being incubated or sponsored by the licensee, but not to include the payment of fair market value consideration for goods provided by the host.

"Sponsor" means an Early Approval Adult Use Dispensing Organization License holder that enters into a no interest loan agreement with a value of at least \$200,000 to a Social Equity Applicant that intends to seek a license.

## **Section 651.20 Cannabis Business Incubator Program**

- a) Through the Cannabis Business Incubator Program, the Department may approve hosts that provide the following required services to a Social Equity Applicant intending to seek a license, or a licensee that qualifies as a Social Equity Applicant. All such services shall commence by March 31, 2020 and shall be substantially completed by March 31, 2021. The host shall:

- 1) agree to provide incubation services to a Social Equity Applicant intending to seek a license, or a licensee that qualified as a Social Equity Applicant for at least one year. Those services shall include mentorship;
  - 2) provide a loan of at least \$100,000, with the loan complying with the following conditions:
    - A) the interest rate shall not exceed 12% and the repayment term shall be no less than 5 years, with the first payment being due no less than one year from the execution of the loan documents. If the host charges fees in connection with the loan, then the annual percentage rate of the loan shall not exceed 12%;
    - B) if the Social Equity Applicant defaults on this loan, no penalties, fees, or costs shall be charged and the borrower's liability shall not exceed the principal balance and accrued interest; and
    - C) securing this loan with a controlling interest in the Social Equity Applicant's license (whether by agreeing to use the license as collateral or requiring a majority equity pledge of the borrower's owners, or by any other mechanism to secure control over a license upon default under the loan) is strictly prohibited;
  - 3) in the event the host does not charge interest on the loan, hold no more than a 10% ownership interest in the licensee; and
  - 4) abide by all other statutory restrictions on ownership, including, but not limited to, those expressed in Section 15-30(k) of the Act.
- b) The Department shall review those hosts engaged in the incubation of a Social Equity Applicant intending to seek a license, or a licensee that qualifies as a Social Equity Applicant. Hosts with multiple licenses are allowed to combine the loan maximums of this Section into a lesser number of Social Equity Applicants. For example, a host that possesses 4 licenses may provide a total of \$400,000 in loans to 2 Social Equity Applicants.
- c) Incubation services shall be provided to a Social Equity Applicant engaging in a similar licensed cannabis activity as the host. For example, a medical cannabis dispensing organization that obtains an Early Approval Adult Use Dispensing Organization License shall incubate a Social Equity Applicant that obtains or is seeking to obtain a Conditional Adult Use Dispensing Organization License.

- d) During the term of the incubation services, hosts shall not enter into agreements with Social Equity Applicants in which the host receives payment for the services provided to the Social Equity Applicant, including, but not limited to, legal fees. This prohibition does not include real estate agreements in which the Social Equity Applicant agrees to lease or license space from the host (or an affiliate of the host) at no higher than market rates for cannabis-related business. The term of any lease or license agreement must not exceed the time necessary to complete the incubation services unless the Social Equity Applicant has the option to terminate the lease or license after one year of incubation services without payment of any fee or penalty. Additionally, delinquency on real estate lease or license payments cannot be the sole cause to default on any loan or for any action that would impair the Social Equity Applicant's continued licensure. Once the incubation services are complete, the host shall provide the Department, for 5 years, with documentation of any agreements related to payments for services between the host and incubated business, including, but not limited to, revenue sharing agreements and service contracts. These agreements would result in the host acquiring ownership interest in the incubated business that may trigger the application of the ownership cap. (See Sections 15-36(d) and 20-30(j) of the Act.)
- e) Hosts are prohibited from charging fees related to loans and services provided through the Cannabis Business Incubator Program.
- f) Hosts shall be required to document all incubation-related services provided to Social Equity Applicants. These records shall detail the hours and types of services provided. Those services include, but are not limited to, mentoring, training, networking, assistance with real estate, and acquisition of financing. Additionally, hosts shall keep records on loans provided to Social Equity Applicants, loan terms, and history of repayment.
- g) The organizational and ownership records must show that the revenue, profits or losses of the Social Equity Applicant are realized by those owners that satisfy the requirements of being a Social Equity Applicant. Contracts that provide for substantial economic benefit of a license to be realized by a third party shall not satisfy the social equity component of the Departmental staff review.
- h) Application Process
  - 1) Applications. Applications will be reviewed on a first-come, first-served basis, when the application is deemed complete in accordance with programmatic and application requirements.

- 2) Those applications that have been received by the Department and are incomplete shall not be reviewed until a complete application is received. Receipt of an incomplete application will not reserve an applicant's position in the Department's review process.
- 3) A staff review by the Department will be conducted to determine whether all the required information is contained in the application.
- 4) The applications shall be reviewed for the presence and totality of the following elements:
  - A) A comprehensive mentoring strategy to provide the incubated organization with assistance with:
    - i) Development of business plans;
    - ii) Marketing;
    - iii) Networking;
    - iv) Security plans;
    - v) Product handling;
    - vi) Design of physical space;
    - vii) Real estate acquisition; and
    - viii) Acquisition of capital beyond the loan, as required by subsection (a)(3).
  - B) Loan interest charged.
  - C) Any ongoing assistance to be offered to the Social Equity Applicant beyond the initial year of incubation.
  - D) A schedule of fees and expenses that may be charged as part of the program.
  - E) Any mentoring of Social Equity Applicants that was done prior to application should be reported in detail including any of the comprehensive mentoring strategy components under subsection (h)(4)(A).

5) Length of Review. Provided that all the required contents of the application are complete and adequate, the Department will notify the applicant within 45 days after the receipt of the complete application of its preliminary approval or denial.

i) Preliminarily Approved Incubator Programs; Reporting and Final Approval. Incubator programs that receive preliminary approval shall provide semiannual reports to the Department using the form provided by the Department. These reports shall include descriptions of services rendered to Social Equity Applicants, status of loan repayment, the progress of the incubated Social Equity Applicant in achieving viability, and any other information requested by the Department. The Department will review the report for completeness and to verify whether the host has continued to provide the preliminarily approved services. Each satisfactory report will be deemed a verified report. If a host does not submit a report or the Department cannot verify that the preliminarily approved incubator services were provided on a consistent basis throughout the reporting period, the Department may exclude that period (or any appropriate portion of the reporting period) from consideration in determining completion of the 12-month incubator program requirement.

1) Incubator programs shall submit two semiannual reports to the Department that will be due on the following dates:

A) October 15, 2020; and

B) April 15, 2021.

2) If a Social Equity Applicant does not complete the Incubator Program, the host shall:

A) find another Social Equity Applicant to incubate. If the host chooses this option, time spent incubating Social Equity Applicants shall be aggregated in order to meet the one year program requirement;

B) proceed with the Cannabis Business Sponsorship Program; or

C) make a contribution of the lesser of either 3% total sales during June 1, 2018 through May 31, 2019 or \$100,000 to either the Cannabis Business Development Fund or to a community college for a cannabis training or education program.

- 3) If a Social Equity Applicant ends its participation in the incubation program after 6 months but before one year, the Department may deem the program complete if the Social Equity Applicant provides the Department with information sufficient to verify that the host was willing to continue the program, that the Social Equity Applicant voluntarily ended its participation and was satisfied with the services being offered, and that the Social Equity Applicant or its principals received no consideration to terminate participation in the program;
  - 4) After the second semiannual report has been deemed verified, the Department will issue the host a final approval letter verifying completion of the minimum requirements of the Cannabis Business Incubator Program.
- j) Records Retention. Hosts shall retain records relating to the Cannabis Business Incubator Program for 5 years from date of submission of the final quarterly report or from the date of the final approval letter, whichever is later.
- k) Compliance with Laws; Notice to Department. Notice of any change in host status or participation in the Cannabis Business Incubator Program shall be sent to the Department in writing within 5 business days after the change takes effect.
- l) Access to Legal Authorities; Audits. A host must permit any agent authorized by the Department, the Illinois Department of Agriculture, the Illinois Department of Financial and Professional Regulation, the Illinois Attorney General, the Illinois Auditor General, or any other legal authority, upon presentation of credentials, to have full access to and the right to examine any documents, papers and records of the hosts involving transactions related to the Program. The Department, at its own discretion, may require hosts to submit to an audit of all documentation related to the Cannabis Business Incubator Program, including, but not limited to, all logs of time spent on mentorship activities.

#### **Section 651.25 Cannabis Business Sponsorship Program**

- a) Through the Cannabis Business Sponsorship Program, the Department may approve sponsors that provide the following required services to licensees that qualify as a Social Equity Applicant. The sponsors shall:
- 1) *participate in the sponsorship program for at least 2 years; and*
  - 2) *provide an interest-free loan of at least \$200,000 to a Social Equity Applicant [410 ILCS 705/15-20 (d)(5)], with a period of disbursement to the Social Equity Applicant over no longer than 2 years. Repayment*

terms shall be no less than 5 years, with the first payment being due no less than one year from the execution of the loan documents. Loan funds shall be used for day-to-day operating expenses and shall not be used for specialized purposes, including, but not limited to, legal expenses.

b) *Ownership Interest. An Early Approval Adult Use Dispensing Organization Licensee:*

- 1) *shall not take an ownership stake in the Social Equity Applicant [410 ILCS 705/15-15(b)(8)(E)]; or*
- 2) *that applies for a second site license shall not take more than a 10% ownership stake in any cannabis business establishment receiving sponsorship services for that site. [410 ILCS 705/15-20(d)(5)]*

c) The restriction on ownership contained in Sections 15-15 and 15-20 of the Act does not prohibit hosts from entering into agreements with Social Equity Applicants in which the sponsor receives payment for the services provided to the Social Equity Applicant. For example, a sponsor may enter into an agreement in which the Social Equity Applicant acquires cannabis product and packaging from the host in exchange for a 2% share of the Social Equity Applicant's revenue that represents a fair market value for products provided. Revenue sharing agreements could lead to a determination of ownership triggering the application of the statutory limit on ownership.

d) Sponsors with multiple licenses are allowed to combine the loan maximums of this Section to benefit a smaller number of Social Equity Applicants. For example, a sponsor that possesses 3 licenses may choose to combine the maximum loan allowed by this Section for the 3 licenses to provide a total of \$600,000 in loans to one Social Equity Applicant.

e) Sponsors shall be required to document any support services provided to Social Equity Applicants. These records shall detail the hours and the services. These services include, but are not limited to, mentoring, training, networking, and assistance with real estate and with acquisition of financing. Additionally, sponsors shall keep records on loans provided to Social Equity Applicants, loan terms, and history of repayment.

- 1) This documentation shall be compiled into a final report to be submitted to the Department at the end of the two-year sponsorship program. After review, the Department shall issue a letter verifying the completion of the minimum requirements of the program.



2) All records shall be kept for a period of 5 years after award of the license that triggered the social equity inclusion plan requirement.

f) Sponsors are prohibited from charging fees for activities undertaken, which may include, but are not limited to, space allocation as a part of the sponsor's Social Equity Plan. Nothing in this Section shall be construed to prohibit the Social Equity Applicant and the sponsor from entering into separate agreements for services-for-fee arrangements outside the Sponsor's Social Equity Plan, but those arrangements shall in no instance be connected to, or required as a part of, the Social Equity Applicant's participation in the Cannabis Business Sponsorship Program.

g) Application Process

1) Applications. Complete formal applications will be reviewed on a first-come, first-served basis, in accordance with programmatic and application requirements.

2) Those applications that have been received by the Department and are incomplete shall not be reviewed until the complete application is received. Receipt of an incomplete application will not reserve an applicant's position in the Department's review process.

3) Staff Review. A staff review by the Department will be conducted to determine whether all the required information is contained in the application.

4) Submission of Required Information

A) The applications shall include the following elements:

1) The granting of an interest-free loan to the Social Equity Applicant in the amount of at least \$200,000 for each license sought under Sections 15-15 and 15-20 of the Act.

2) Listing of additional loans provided to Social Equity Applicants, beyond those required by this Section, if any, and interest rates charged on those loans.

3) Any ongoing assistance to be offered to the Social Equity Applicant beyond the initial year of sponsorship.

B) Length of Review. Provided that all the required contents of the application are complete and adequate, the Department will notify the applicant, within 45 days after the receipt of the complete application, of its approval or denial.

- h) Access to Legal Authorities; Audits. A sponsor must permit any agent authorized by the Department, the Illinois Department of Agriculture, the Illinois Department of Financial and Professional Regulation, the Illinois Attorney General, the Illinois Auditor General, or any other legal authority, upon presentation of credentials, to have full access to and the right to examine any documents, papers, and records of the sponsors involving transactions related to the Program. The Department, at its own discretion, shall require sponsors to submit to an audit of all documentation related to the Cannabis Business Sponsorship Program, including, but not limited to, all logs of time spent on mentorship activities.
- i) Compliance with Laws; Notice to Department. All activities undertaken under this Section shall be performed in compliance with all applicable laws. Notice of any change in sponsorship status or participation in the Cannabis Business Sponsorship Program shall be sent to the Department in writing within 5 business days after the change takes effect.